

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

4 - - - - - x

5 In the Matter of:

6

7 CELSIUS NETWORK, LLC,

8 Debtor.

9 - - - - - x

10 Adv. Case No. 22-01002-mg

11 - - - - - x

12 CELSIUS NETWORK LIMITED et al.,

13 Plaintiff,

14 v.

15 FABRIC VENTURES GROUP SARL,

16 Defendants.

17 - - - - - x

18 Adv. Case No. 22-01179-mg

19 - - - - - x

20 FRISHBERG,

21 Plaintiff,

22 v.

23 CELSIUS NETWORK LLC et al.,

24 Defendants.

25 - - - - - x

Adv. Case No. 22-01003-mg

- - - - - x

YANCHUK,

Plaintiff,

v.

GK8 Ltd/GK8 UK Limited/GK8 U.S.A, LLC,

Defendants.

- - - - - x

United States Bankruptcy Court

One Bowling Green

New York, NY 10004

March 8, 2023

11:02 AM

B E F O R E :

HON MARTIN GLENN

U.S. BANKRUPTCY JUDGE

ECRO: F. FERGUSON

1 HEARING re Status Update

2
3 HEARING re Hearing Using Zoom for Government RE: Second
4 Motion to Extend Exclusivity Period for Filing a Chapter 11
5 Plan and Disclosure Statement. (Doc## 1940, 1996, 2008,
6 2010, 2011, 2013 to 2015, 2038, 2043, 1645, 1317, 1764,
7 2043, 2046, 2047, 2048, 2052, 2057, 2058, 2066, 2067, 2068,
8 2071, 2088, 2094, 2101, 2111, 2157, 2158, 2159, 2162, 2163,
9 2168, 2184, 2186)

10
11 HEARING re Hearing Using Zoom for Government RE: Motion of
12 the Official Committee of Unsecured Creditors to Approve
13 Joint Stipulation and Agreed Order between the Official
14 Committee of Unsecured Creditors and the Debtors with
15 respect to Certain Claims and Causes of Action Belonging to
16 the Debtors Estates. (Doc## 2054, 2059, 2146, 2154)

17
18 HEARING re Hearing Using Zoom for Government RE: Debtors
19 Motion Seeking Entry of an Order (I) Striking Certain Items
20 from Appellants Designation of Record on Appeal and (II)
21 Granting Related Relief. (Doc# 2085, 2111, 2164, 2187)

1 HEARING re Hearing Using Zoom for Government RE: Debtor's
2 Motion Seeking Entry of an Order (I) Striking Certain Items
3 from Kulpreet Khanujas Designation of Record on Appeal and
4 (II) Granting Related Relief. (Doc# 2126, 2164, 2187, 2063)

5
6 HEARING re Hearing Using Zoom for Government RE: Debtor's
7 Motion Seeking Entry of an Order (I) Striking Certain Items
8 from Courtney Burks Steadmans Designation of Record on
9 Appeal and (II) Granting Related Relief. (Doc# 2127, 2164,
10 2187, 2121)

11
12 HEARING re Adversary proceeding: 22-01179-mg Frishberg v.
13 Celsius Network LLC et al
14 Pretrial Conference Using Zoom for Government. (Doc ## 1 to
15 13)

16
17 HEARING re Adversary proceeding: 23-01002-mg Celsius Network
18 Limited v. Fabric Ventures Group SARL
19 Pre-Trial Conference Using Zoom for Government. (Doc # 1 to
20 3)

21
22 HEARING re Adversary proceeding: 23-01003-mg Yanchuk v. GK8
23 Ltd/GK8 UK Limited/GK8 U.S.A, LLC
24 Pre-Trial Conference Using Zoom for Government. (Doc # 1 to
25 3)

1 HEARING re Hearing Using Zoom for Government RE: Official
2 Committee of Unsecured Creditors' Application for Entry of
3 an Order Authorizing the Employment and Retention of Selendy
4 Gay Elsberg PLLC as Co-Counsel Effective as of January 8,
5 2023. (Doc # 1964, 2156)

6
7 HEARING re Hearing Using Zoom for Government RE: Motion for
8 Order to Show Cause Why the Debtors Should not Retain Willis
9 Towers Watson. (Docifit 2042 to 2044, 1392, 1398, 1444,
10 1446, 1556, 1613, 1679, 1703, 1706, 1771, 1774, 1829, 1928,
11 2087)

12
13 HEARING re Doc# 2198 Amended Notice of Agenda for Hearing to
14 be held March 8, 2023, at 11:00 A.M. (Prevailing Eastern
15 Time)

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25 Transcribed by: Sonya Ledanski Hyde

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24 IMMANUEL HERRMANN

25 Pro Se Creditor

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SAMUEL ANDERSON

Pro Se Creditor

ALSO PRESENT TELEPHONICALLY:

CHRIS FERRARO

1 P R O C E E D I N G S

2 THE COURT: Thank you and good morning, everybody.
3 All right, so we have a long agenda, let's start to go
4 through it. First, we're going to start with the -- so I'm
5 looking at the agenda for today's hearing. Let's start with
6 the company status update.

7 MR. KOENIG: Thank you, Your Honor. For the
8 record, Chris Koenig, Kirkland & Ellis, for the Debtors. As
9 we have, you know, we have Mr. Ferraro, who's the Debtor's
10 interim chief executive officer on the line to provide the
11 business update. Given the data and Mr. Ferraro's
12 presentation, we filed some slides to help, you know, guide
13 Mr. Ferraro's statement. We filed this at Docket No. 2197.

14 My colleague, Elizabeth Jones, is on the line. If
15 she can have sharing privileges on the Zoom, we can put the
16 slides up for everybody to look at.

17 THE COURT: Yes, she can, certainly.

18 CLERK: All right. She's been made a cohost.

19 THE COURT: All right, and I have a copy in front
20 of me as well, Mr. Koenig.

21 MR. KOENIG: Wonderful. I'll just wait to see the
22 slides on the...

23 THE COURT: Absolutely.

24 MR. KOENIG: Okay, looks like we have it. So, Mr.
25 Ferraro, could you please provide a general update about the

1 company's current operations.

2 MR. FERRARO: Yeah. Hello and good morning, Your
3 Honor.

4 THE COURT: Good morning.

5 MR. FERRARO: To date, we have good progress with
6 respect to custody withdrawals in our mining operations.
7 Specifically, we started processing custody withdrawals for
8 eligible users on Thursday, March 2nd. Additionally, we've
9 seen operational and margin improvements in our mining
10 business. I will also be giving a quick update on the cash
11 position in a few minutes, but let's jump right in and get
12 started.

13 MR. KOENIG: All right. So, Mr. Ferraro, let's
14 get started with the current status of the custody account
15 withdrawals, including the KYC process and the processing of
16 the actual withdrawals themselves.

17 MR. FERRARO: Okay, perfect. As a reminder, on
18 December 20th, the Court authorized Celsius to return
19 custody of coins to eligible users. Celsius is currently
20 allowed to distribute 94 percent of each eligible user's
21 distributable custody assets, less the transaction fees.

22 On February 15th, we opened up the system for
23 users to refresh their KYC data. This is a pretty simple
24 and quick process. A user logs onto the application and is
25 directed to verify their identity information and upload a

1 government ID. Additionally, users are required to enter
2 the destination wallet address. In the last three weeks,
3 almost 60 percent of the users by count that are eligible to
4 withdraw have finished this process. Measured in value,
5 those 60 percent of users represent 80 percent of the amount
6 of cryptocurrency that is eligible to be withdrawn from the
7 custody program.

8 I will go through additional details on the next
9 slide.

10 Beginning on March 2nd, eligible users who
11 finished the KYC process were allowed to begin custody
12 withdrawals. As of yesterday, customers had completed
13 withdrawals of 17.7 million and 3.5 million are in process,
14 for a total of 21.2 million. Since we opened on Thursday,
15 we've received over 1900 tickets. Tickets are primarily for
16 withdrawals needing additional review and customers coming
17 back to the platform to update their KYC. The oldest ticket
18 without a Celsius response is less than one day old.

19 Overall, the system is working as planned,
20 including our security processes. In the last week, 234
21 transactions were scored as high risk and blocked.
22 Additionally, our security operations center has handled
23 over 100 alerts, including five phishing attacks.

24 Now moving on to the next slide.

25 In preparing for these withdrawals, we reset KYC

1 for all eligible customers. As of yesterday, only around .5
2 percent or 111 users were rejected. Those users will need
3 to restart the process and upload their government issued
4 ID. For those who have not started the process, we will
5 continue to send emails and provide in-application popups
6 directing users to complete the necessary step.

7 Customers who passed KYC had approximately 33
8 million of eligible balances. Of that 33 million,
9 approximately 65 percent have started the process of
10 withdrawing coins off the platform in the first week. Total
11 withdraw fees charged are in line with the transaction
12 costs, specifically gas fees and the costs related to KYC.

13 We will continue to monitor actual versus expected
14 costs, but as of now, we are satisfied with the current
15 level of withdrawal fees.

16 THE COURT: Just remind me what those withdrawal
17 fees are.

18 MR. FERRARO: Well, they range per transaction,
19 you know, not dependent upon the size. It could be a couple
20 of dollars, you know, and up. On average, Your Honor, it's
21 been about 10 basis points, 10 to 15 basis points of the
22 dollars that have been withdrawn, so pretty low transaction
23 costs.

24 THE COURT: All right, go ahead.

25 MR. FERRARO: Okay.

1 MR. KOENIG: Thank you, Mr. Ferraro. If there's
2 nothing else on the custody withdrawal process, can you
3 provide an update next on the mining operations and the
4 current status.

5 MR. FERRARO: Yes. Our uptime, or the percentage
6 of time our machines are hashing, improved in February on
7 the back of continued low energy prices and improved BTC.
8 You can see this on the graph in the top left. We have an
9 uptime of 75 percent from February, a sizeable increase of
10 the January results and the highest since the petition date.

11 Moving to the graph on the top right. The trend
12 in BTC price is shown in the blue columns and the orange
13 line represents the margin percentage.

14 THE COURT: I haven't looked at it this week.
15 What's the BTC price this week?

16 MR. FERRARO: 22,000 right now.

17 THE COURT: All right.

18 MR. FERRARO: In February, our margin increased to
19 almost 40 percent driven by this favorable market backdrop.
20 As a point of comparison, our margin in February was double
21 what we earned in December. We are currently mining around
22 a 30 percent margin, down slightly from the lower BTC price
23 of 22,000.

24 Moving to the graph on the bottom left, which
25 shows the number of rigs deployed in the blue columns and

1 the average BTC mined per day in the orange line, we had
2 between 50,000 and 65,000 rigs deployed from the petition
3 date through December (sound drops). In early January, Core
4 Scientific rejected our hosting agreement and 37,000 rigs
5 went offline, which you can see in both the significant
6 decline in rigs deployed and the drop in the average BTC
7 mined per day.

8 If you remember at the last update, I announced a
9 new hosting agreement for 17,000 rigs, and we deployed 7,000
10 of those rigs in late February and expect that all of the
11 remaining rigs will be deployed by the end of March. We
12 also expect to have deployed all the rigs that were
13 previously at the core sites by the end of the second
14 quarter, at which point, we should exceed an average of 20
15 BTC mined per day.

16 Just for Your Honor's benefit, we're currently
17 mining around 9 BTC per day.

18 Finally on the bottom right, you can see the trend
19 for EBITDA, which for this business is effectively the net
20 income adjusted to add back depreciation. EBITDA is a good
21 proxy for cash from operations. You can see with the
22 favorable market backdrop, our EBITDA trended up nicely from
23 the low we saw in December with January and February over 1
24 million in EBITDA.

25 THE COURT: So what was the price of Bitcoin at

1 the petition date?

2 MR. FERRARO: I don't have it handy. I think it
3 was around these levels.

4 THE COURT: We can come back to it, but maybe you
5 can have somebody help you and find that. If there'd been,
6 in terms of continuing communications from primarily ad hoc
7 creditors, they've focused on any appreciation in the
8 Bitcoin price since the petition date and who benefits from
9 that net increase, so that's why I'm asking about --

10 MR. FERRARO: Got it.

11 THE COURT: -- what it was at the petition date
12 versus now.

13 MR. FERRARO: Yeah. It was 20,250 as of July 18th
14 versus the 22,000 as of today, so it's about 10 percent up.

15 THE COURT: Okay, thank you. Go ahead.

16 MR. KOENIG: Thank you, Mr. Ferraro. If nothing
17 else on mining, can you please turn to the current cash
18 position of the company.

19 MR. FERRARO: Yeah, flip to the next page. As a
20 reminder, we started the case with 138 million of cash. We
21 now have 139 on hand as of February month end. Our cash
22 from operations was a positive 119 million; 92 of that was
23 related to the sale of stable coins and withdrawing funds
24 from exchanges. Adjusting for these two items, our cash
25 flow from operations was approximately a positive 30

1 million.

2 We invested 50 million in our mining business to
3 finish the buildout of our proprietary sites and other
4 investments and paid nearly 70 million related to
5 restructuring.

6 So net, Your Honor, our cash balance is basically
7 flat to the petition date as the inflows from operations and
8 returning deployments under both our investment and
9 proprietary sites and restructuring costs. And that's all I
10 have for you today.

11 THE COURT: Thank you very much, Mr. Ferraro. All
12 right, Mr. Koenig, let's move on. We're on the contested
13 matters and the motion to extend exclusivity is the first on
14 the calendar.

15 MR. KOENIG: Thank you, Your Honor. We filed an
16 amended agenda last night that reflected that the
17 committee's retention application can go first just so that
18 those professionals can leave the hearing if that's
19 acceptable to Your Honor.

20 THE COURT: It certainly is. Mr. Colodny.

21 MR. KOENIG: I believe Mr. Pesce will be handling
22 this one, Your Honor.

23 THE COURT: Okay. Good morning, Mr. Pesce.

24 MR. PESCE: Good morning, Your Honor. Gregory
25 Pesce, White & Case, on behalf of the committee. I

1 apologize I'm not on video. I'm in a spot where the
2 connection is unstable, so forgive me.

3 THE COURT: Okay.

4 MR. PESCE: The first matter that we wanted to
5 deal with is an uncontested matter, which is the application
6 to retain Selendy & Gay as co-counsel to the committee. We
7 filed the application at Docket 1964. Ahead of the
8 objection deadline, we requested an extension to accommodate
9 some questions that the United States Trustee had.
10 Following that extension, supplemental declaration was filed
11 by Miss Jennifer Selendy of the firm at Docket No. 2191, and
12 a revised order was filed at Docket 2194.

13 The supplemental declaration includes additional
14 information regarding a separate team at my law firm that
15 represents the joint provisional liquidators of FTX, Digital
16 Markets, a non-debtor affiliate of FTX, and their role in
17 that bankruptcy case, as well as work that the Selendy firm
18 will do involving preferred equity holders involving some
19 discovery issues.

20 My understanding is the United States Trustee has
21 no further issues based on the declaration that was filed,
22 and Miss Selendy is online today to answer any questions
23 that the Court might have.

24 THE COURT: For the benefit of everyone who's
25 appearing today, just briefly describe what work it is that

1 Selendy & Gay will be undertaking.

2 MR. PESCE: Sure. Following FTX's bankruptcy
3 filing in November, the joint provisional liquidators of FTX
4 Digital Markets, which is a brokerage effectively in the
5 Bahamas, was taken under supervision by the Bahamian Supreme
6 Court. They appointed joint provisional liquidators, which
7 are equivalent to receivers.

8 Those receivers then in turn hired a team of White
9 & Case attorneys to represent them effectively as one of the
10 largest creditors of FTX. Those provisional liquidators
11 then filed a recognition proceeding in New York, which was
12 then subsequently transferred to Delaware, and that team of
13 White & Case attorneys is representing the provisional
14 liquidators in that capacity as large creditors effectively
15 of FTX.

16 As has been reported, there have been transfers
17 from some FTX entities, although we don't believe from FTX
18 Digital Markets to Celsius. Out of an abundance of caution,
19 my firm implemented an ethical screen between that team and
20 the team that works on the Celsius matter and the additional
21 disclosures were made. We also then sought to engage the
22 Selendy firm to deal with any issues that might implicate
23 the Bahamian joint provisional liquidators.

24 In addition to that, as disclosed in the
25 retention application and my declarations, prior to the

1 bankruptcy filing, a separate team of people at my firm that
2 are not working on this matter did approximately \$300,000 of
3 work on a due diligence project for WESCAP that was
4 associated with the Celsius investment that WESCAP made. We
5 have a conflict waiver, but out of an abundance of caution,
6 we have engaged Selendy to deal with certain discovery
7 dispute that were implicated by the customer claim
8 litigation that was litigated before the Court earlier this
9 year in which they dealt with some discovery issues that
10 came up.

11 Again, out of an abundance of caution so that
12 questions regarding what work White & Case had done
13 previously for WESCAP were not a distraction for that
14 proceeding where we were -- and the positions that we were
15 taking in that regard.

16 THE COURT: All right, thank you. Miss Selendy,
17 do you want to say anything?

18 MS. SELENDY: No, Your Honor. I think it's
19 covered by Mr. Pesce. Thank you.

20 THE COURT: All right. Miss Cornell?

21 MS. CORNELL: Good morning, Your Honor. Shara
22 Cornell on behalf of the Office of the United States
23 Trustee. Everything that Mr. Pesce said is accurate. We've
24 been working both with the Law Firm of White & Case and with
25 Miss Selendy's law firm to come to an agreement on these

1 supplemental declarations, and as of right now, we have no
2 objection to the order being entered.

3 THE COURT: All right, thank you. Anybody else
4 wish to be heard? All right. The Court the has reviewed
5 the application for the retention of Selendy & Gay. I'm
6 satisfied with everything that I've seen so far, the U.S.
7 Trustee, any issues have been resolved with supplemental
8 declarations, so that retention is approved. Welcome
9 aboard, Ms. Selendy.

10 MS. SELENDY: Thank you, Your Honor.

11 THE COURT: Okay. All right, Mr. Koenig, back to
12 you.

13 MR. KOENIG: Thank you, Your Honor. Again for the
14 record, Chris Koenig.

15 Turning back to the exclusivity motion, this is a
16 carryover from the last hearing. We filed the motion to
17 obtain an extension of the plan filing date through March
18 31st and the solicitation date through June 30th. Given the
19 bridge order that was entered at the last hearing, we now
20 just need a further extension of 23 days in order to reach
21 March 31st. We think that this extension of just over a
22 little over three weeks is clearly justified by our progress
23 to date.

24 Specifically, we've been busy since February 15th
25 working to turn the plan framework, which were just

1 PowerPoint slides, non-binding that we filed the night
2 before the hearing, into a binding commitment and we've done
3 that.

4 On the night of February 28th, we the committee
5 and NovaWulf, as proposed plan sponsor, signed and filed the
6 plan sponsor agreement that has a detailed plan term sheet
7 attached. We filed a notice designating NovaWulf as the
8 stalking horse bidder and proposed plan sponsor. We filed a
9 motion to approve certain bid protections for NovaWulf as
10 the stalking horse bidder. The plan sponsor agreement and
11 term sheet are attached to that motion, which is filed at
12 Docket No. 2151.

13 But to be clear, this isn't the end of the sale
14 process. We filed a notice explaining that the final bid
15 deadline has been extended to April 17th. The Debtors and
16 the committee believe that the NovaWulf deal is the best
17 offer received to date but will continue to engage with
18 other potential bidders ahead of April 17th to see if
19 there's a higher or better offer out there, and if there is,
20 the Debtors and the committee have a broad fiduciary out to
21 pursue that offer.

22 But we do think that there is very substantial
23 value to the estates from the plan sponsor agreement and
24 from NovaWulf's binding agreement to serve as a stalking
25 horse bidder. If there is a higher or better bid, it will

1 be because of the floor that's set by NovaWulf's stalking
2 horse bid.

3 So we filed the bid protections motion, which will
4 be heard on March 21st to provide NovaWulf with expense
5 reimbursement and a breakup fee as part of their agreement
6 to serve as a stalking horse bidder. So that's the next
7 step of the process; on March 21st, this bid protection
8 hearing will take place.

9 And just briefly before turning to exclusivity, I
10 want to talk about some of the other key milestones in the
11 plan sponsor agreement. We and the committee see on social
12 media that some account holders think it will be years
13 before Celsius can exit from bankruptcy and before
14 distributions can be made; that is absolutely not the case.

15 Specifically, we have a milestone to file a plan
16 and disclosure statement by the end of March, that coincides
17 with the exclusivity extension we're talking about right
18 now. We then have a milestone to have that disclosure
19 statement approved by May 10th. At that point, if the Court
20 approves the disclosure statement, the voting process will
21 commence. We'll send out the solicitation materials and the
22 ballots to account holders. There will be a solicitation
23 period of about 30 days. Then we have another milestone to
24 obtain a confirmation order by June 20th, and a milestone
25 for the plan to become effective and for Celsius to exit

1 from bankruptcy by the end of June, and the end of June is
2 within our latest projections for our liquidity runway.

3 If we're able to achieve this, Your Honor, that
4 would mean that Celsius would be in and out of bankruptcy in
5 under one year. And I know that this process is taking much
6 longer than many account holders would like, but we now have
7 selected our stalking horse bidder, proposed plan sponsor.
8 We're picking up steam; we're headed for the exit.

9 So turning more formally now to exclusivity. The
10 incremental progress that we've made over the past months
11 and certainly weeks is evidence that the Chapter 11 process
12 is working as intended, to allow the Debtors the time to
13 develop a transaction and work to build a consensus for that
14 transaction.

15 At our last hearing in February, we just had
16 PowerPoint slides. Now, we have a binding agreement that's
17 signed by the proposed plan sponsor and the committee. And
18 we've made progress with other stakeholders too. We have a
19 settlement with the custody holders that will be heard on
20 March 21st.

21 And I'm pleased to report that we now have an
22 agreement in principle with the ad hoc group of withhold
23 holders -- say that five times fast -- but we need to
24 finalize that documentation, but we expect to file a motion
25 to approve that settlement in the coming days and have that

1 heard at our April omnibus hearing.

2 We've made good progress with the borrower ad hoc
3 group as well. We've had several constructive calls with
4 them to address their comments and questions on the retail
5 loan treatment. We continue to engage with the regulators
6 as well. We have regular calls with them, have provided
7 diligence, and answered a variety of different questions
8 that they have about the plan.

9 Now, I think it's notable how few supplemental
10 objections were filed as part of the supplemental objection
11 deadline. There were objections filed by the withhold ad
12 hoc group, which I believe is now resolved given our
13 agreement in principle. There's an objection by the
14 borrower ad hoc group. I don't know how Mr. Adler intends
15 to proceed today, but I know that we've had very
16 constructive discussions with him and we intend to keep
17 moving those forward.

18 There were a few other pro se account holders that
19 filed objections. You know, I believe that those are
20 objections really to confirmation of the plan, not really an
21 objection to the extension of exclusivity. I can turn to
22 those in a moment.

23 But I think it's notable that there weren't
24 objections by any of the regulators. We understand that
25 that was intentional, given the constructive dialogue that

1 we've had. To be clear, obviously, we have to keep talking
2 to the regulators. My comments shouldn't be interpreted to
3 mean that the regulators are signed off on the transaction
4 or anything like that, but I think it's evidence that the
5 process is working. We're speaking to our key stakeholders
6 and we're making incremental progress from each hearing.
7 This is exactly what the exclusivity deadline is designed to
8 cause and that's exactly how it has worked here.

9 So let me pause there to see if Your Honor has any
10 initial comments and then I can turn it over to the
11 committee and any other party that wishes to be heard and I
12 can address any remaining objections after they're raised.

13 THE COURT: Well, let me hear from any parties who
14 support the requested extension of exclusivity; it's a 23-
15 day extension. Do you want to be heard, Mr. Colodny, are
16 you going to speak for the committee?

17 MR. COLODNY: Yes, Your Honor. Aaron Colodny from
18 White & Case on behalf of the Official Committee of
19 Unsecured Creditors.

20 As Mr. Koenig describes, we are making progress
21 towards the Chapter 11 plan and resolving these Chapter 11
22 cases. I don't want to tread over too much of what Mr.
23 Koenig said, but at this point, I will say that the
24 committee believes the NovaWulf transaction presents the
25 best opportunity to maximize value for creditors and the

1 most certain path to conclude these Chapter 11 cases in a
2 timely manner.

3 But critically, the committee's support for the
4 plan support agreement and the NovaWulf transaction is
5 conditioned on the ability of both the committee and the
6 Debtors to continue to develop and consider other bids in
7 the coming weeks and months.

8 Currently, our support is for NovaWulf to be a
9 stalking horse and we remain open to all options and better
10 alternatives. If any better alternative is received, the
11 Debtors and the committee have the ability to hold an
12 auction to determine the highest and best proposed bid.

13 THE COURT: Let me ask this -- I don't know -- Mr.
14 Koenig or Mr. Colodny. Are there any -- without naming them
15 at this point, are there other parties who are kicking the
16 tires that you've been, you know, sharing information with?
17 I guess let me ask -- one of you can tell me that -- Mr.
18 Koenig.

19 MR. KOENIG: Sure, Your Honor. Again, Chris
20 Koenig.

21 We have ongoing dialogues with -- there's one
22 bidder that is still -- you know, we're still having an
23 ongoing dialogue with. And obviously, if some other bidder
24 emerges as part of the process, we'll continue to talk to
25 them too.

1 THE COURT: All right. Mr. Colodny, anything you
2 want to add on that? Again, I don't want to know the names
3 at this point. I'm just interested in knowing if there are
4 more parties involved.

5 MR. COLODNY: You beat me by one sentence, Your
6 Honor. You know, two days ago, the Debtors and the
7 committee met with the interested party that Mr. Koenig was
8 referring to. You know, we are interested in developing
9 that bid. We currently don't believe that it provides the
10 higher and better transaction, but we're optimistic that it
11 could get there.

12 And, you know, I just want to be absolutely clear
13 that we are committed to get the most value to account
14 holders as soon as possible; that's our task and I believe
15 the Debtors are in the same boat with us on that.

16 THE COURT: Thanks, Mr. Colodny. Does anybody
17 want to speak in support of the extension of exclusivity
18 that's been requested?

19 All right, let me turn to the objections. I'm
20 going to go through in the order in which I have them in my
21 notes. I know Mr. Adler, you had your hand raised, but
22 we'll get to you, okay?

23 So the first one in my notes is Mr. Ubierna de las
24 Heras. The objection is at ECF 1996. Do you wish to be
25 heard?

1 Deanna, can you tell me whether he's signed in
2 today?

3 CLERK: Yes, he is signed in. Mr. de las Heras?

4 THE COURT: All right, I'll give him another
5 chance. The next in my notes, I have the ad hoc group of
6 withhold account holders and their objection is at ECF 1940.

7 MS. KOVSKY: Good morning, Your Honor. Deb Kovsky
8 for the ad hoc group. Are you able to hear me okay?

9 THE COURT: Yes, I can. Thank you very much.
10 Good morning.

11 MS. KOVSKY: Good morning. Further to what Mr.
12 Koenig said, we do have an agreement in principle between
13 the Debtors, the committee, and the withhold account
14 holders. I wanted to thank counsel for the Debtors and
15 counsel for the committee for working productively with us
16 towards a consensual resolution.

17 Based on our agreement in principle, we'll
18 withdraw our objection to the extension of exclusivity with
19 all rights reserved with respect to the plan.

20 THE COURT: Thank you very much, Miss Kovsky. All
21 right, next on my list is Mr. Herrmann, which his objection
22 is at ECF 2015.

23 MR. HERRMANN: Immanuel Herrmann, pro se creditor.
24 Thank you, Your Honor.

25 THE COURT: Good morning.

1 MR. HERRMANN: Good morning. So, yeah, I don't
2 have a whole lot to say about this. I'm okay with a short-
3 term extension, so I can withdraw my objection.

4 The one thing I will say is I think it would be
5 good to get alternative plans made public so that creditors
6 can decide if they're better and not just have it sort of
7 decided behind the scenes. I understand there's some other
8 motion we can raise this in the context of, so I can look at
9 that. I believe the Debtors mentioned that in their reply
10 so I'll take a look at that.

11 THE COURT: All right. Thanks, Mr. Herrmann.
12 Miss Cornell, the U.S. Trustee, the objection was at ECF
13 2010.

14 MS. CORNELL: Good morning again, Your Honor.
15 Shara Cornell with the Office of the United States Trustee.

16 Our office still has some questions regarding the
17 liquidity through the end of the solicitation period
18 requested by the Debtors. And obviously, some of our other
19 questions about the plan itself still persist, but we are
20 working constructively with the Debtors and the committee to
21 get more answers.

22 I cannot withdraw our objection at this time, but
23 I can report that we are working constructively on those
24 issues.

25 THE COURT: All right. Thanks very much, Miss

1 Cornell.

2 MS. CORNELL: Thank you.

3 THE COURT: All right. The ad hoc group of
4 borrowers, the objection is at ECF 2013.

5 MR. ADLER: Good morning, Your Honor. David Adler
6 from McCarter & English.

7 I can also report that we've had a number of
8 meetings with the Debtor and the committee and that we are
9 making, I believe, progress. We still do not have a
10 resolution that is acceptable or satisfactory on the issues
11 that I raised in my objection with respect to the
12 availability of all borrowers to participate in the program,
13 number one. And, number two, ensuring --

14 THE COURT: Some of that has to do with
15 eligibility within particular states; am I correct?

16 MR. ADLER: Right. So, for example, Your Honor,
17 there are a number of members in the ad hoc group who are in
18 foreign countries -- I think Australia, Switzerland, Spain -
19 - and we want to make certain that the program that's
20 available is available to all borrowers, number one.

21 Number two, we obviously are concerned about this
22 extension of the loans. We want to make sure that for the
23 borrowers that sign up, they're not signing up for another
24 situation like Celsius of FTX.

25 We're working on those issues, Your Honor. I am

1 not going to press the objection since we're talking about
2 three weeks. Obviously, we're hopeful that we can reach a
3 resolution on these issues with the Debtor and the
4 interested parties and the bidder. We have been contacted
5 by other interested parties as well, who may make a bid.

6 So I guess, Your Honor, we'll see how things play
7 out when we get to March 21st on the motion for the bid.
8 Okay?

9 THE COURT: Okay. Thanks, Mr. Adler. Thank you
10 very much. Mr. Frishberg, your objection is at ECF 2014.

11 MR. FRISHBERG: Thank you, Your Honor. I agree
12 with most of what the other people have said, especially Mr.
13 Herrmann. I do think that basically making the bids public
14 would be quite useful for creditors to see what the other
15 options are and transparency, as people have said, is the
16 best disinfectant.

17 It would make me feel a lot better knowing that
18 the best bid is actually being picked and not what the
19 committee or the special committee feels is the best bid or
20 what is best for creditors.

21 Yeah, that's about it. Thanks so much and have a
22 great day, Your Honor.

23 THE COURT: All right. Thanks very much, Mr.
24 Frishberg.

25 Mr. Koenig, are there any other firm proposals

1 other than expressions of interest. I mean, one of the
2 issues, Mr. Frishberg, about what you say is, you know,
3 people come in and kick the tires and express interest, but
4 there's nothing binding about it, and then they're unwilling
5 to sign on the dotted line to commit.

6 So I don't know whether -- Mr. Koenig, are there
7 competing firm offers at this stage?

8 MR. KOENIG: Your Honor, again for the record,
9 Chris Koenig.

10 There's not any other firm offers at this point.
11 I'd describe it more as an initial indication of interest
12 and we've had dialogue and we intend to continue that
13 dialogue and maybe it will ripen into a binding commitment
14 or not, but at this point, we certainly don't have that
15 standing here today.

16 THE COURT: Okay, thank you. All right, is there
17 anybody else who wishes to be heard? At least in my notes,
18 I think I have now covered all of the objections that I have
19 noted. Is there anybody else who wants to speak in
20 opposition to the extension of exclusivity? All right.

21 CLERK: Sorry, Judge. You have one raised hand,
22 Lawrence Porter.

23 THE COURT: All right, Mr. Porter. You need to
24 unmute.

25 CLERK: I'm asking you to unmute, Mr. Porter.

1 THE COURT: All right, go ahead. You were unmuted
2 and then you muted again.

3 CLERK: All right. I'm asking -- there you are.

4 THE COURT: Go ahead.

5 MR. PORTER: Thank you again, Your Honor. This is
6 not a reorganization of Celsius Network. This is a new
7 company coming in and they are trying to turn us into hedge
8 fund investors. We feel NovaWulf's plan is predatory. We
9 would like to see competitive bids and try to get the best
10 outcome for creditors. Please do not extend this Celsius
11 exclusivity.

12 Thank you, Your Honor.

13 THE COURT: All right, Mr. Porter. My only
14 comment is, you know, it's the only firm offer that's been
15 made. There is a procedure that's established. Both the
16 committee and the Debtor, I believe them when they say
17 they're committed to the highest and best offer. Things
18 that might go to objections to a disclosure statement or
19 plan are premature for today but thank you for your
20 comments.

21 Anybody else who wishes to be heard? All right.
22 I'll be brief in my analysis.

23 I'm going to grant the requested extension of
24 exclusivity. The reasons for that are the Debtors have now
25 proposed a plan structure, entered into a plan sponsor

1 agreement, and have reached a settlement with the custody
2 group. The Adelpia factors, and I think I've talked about
3 the Adelpia case before; it's one of the leading cases in
4 this district in terms of the factors for approving an
5 extension of exclusivity. The Adelpia factors
6 overwhelmingly support the extension of exclusivity.

7 I won't spend a lot of time on it, but this case
8 is large and complex. In my view, progress has been made.
9 In my view, the creditors will not be prejudiced by an
10 extension. From all indications, the Debtor is paying its
11 bills as they come due, but it is, there's no question,
12 using customer funds to do so. That would be a negative
13 factor.

14 There is no evidence that the Debtor is seeking an
15 extension to pressure creditors. Indeed, this has been for
16 some time now. I'm very appreciative of the fact that the
17 committee has been working very cooperatively with the
18 Debtors in trying to come to a value maximizing transaction.

19 Next, the amount of time that has elapsed, again,
20 also weighs in favor of an extension. The reality is, in
21 large Chapter 11 cases, it can take quite some time to move
22 those cases forward. By those standards, this actually has
23 been fairly prompt.

24 So on balance, the Adelpia factors favor the
25 extension of exclusivity. The Debtors have a fairly

1 detailed plan structure with dates to come forward with the
2 disclosure statement and move forward. In terms of the
3 NovaWulf transaction, while we don't have them on today, the
4 bid protections that have been asked for; they'll be taken
5 up at another time. But there's a broad fiduciary out so
6 that if a higher and better transaction comes forward, there
7 certainly is the hope that that will take place.

8 Let me make a couple of comments. Mr. Koenig and
9 Mr. Colodny, there are a lot of unsecured creditors in this
10 case, many of them pro se, some may be lawyers, most not.
11 There are ad hoc committees represented by counsel, the
12 committee is represented by counsel.

13 It's my hope that this disclosure statement, when
14 you provide it, will have a pretty thorough plain English
15 executive summary that all creditors -- I mean, they can
16 look -- hopefully, they'll read the whole thing. You know,
17 the problem with disclosure statements necessarily, they're
18 quite lengthy. And the executive summary, obviously, it
19 needs to be accurate and fair, but it's very important for
20 creditors to be able to read that, understand what's
21 proposed.

22 So I would hope that when you file a proposed
23 disclosure statement, it will have a very plain English
24 executive summary that will sort of tell the story and put
25 it together.

1 You know, there have been -- the Court continues
2 to receive many communications and they fall into a couple
3 of different categories. And I'm sure you're seeing the
4 same things, both the committee and the Debtor, and I assume
5 the U.S. Trustee and the other ad hoc committees as well.

6 There's been a lot of concern about the potential
7 for clawback actions. I understand in the framework for
8 those creditors who vote in favor, anybody with less than
9 \$100,000, as I understand it right now. The outline --
10 anybody with less than \$100,000 potential clawback who votes
11 in favor would not be -- there would not be a clawback
12 action.

13 I think all of those -- you know, we've had
14 discussions about clawback actions a number of times. This
15 obviously came up with respect to the custody account
16 holders because most of those transfers into custody
17 accounts happened 89 days before the petition date.

18 Under the bankruptcy law, you know, to some extent
19 the Debtors and the committee and other professionals, they
20 have to follow the law. Yes, and I commented earlier in the
21 case, there certainly can be a consensual resolution of
22 clawbacks and that, in part, is what's happened with respect
23 to the custody account holders because of the potential --
24 other than the pure custody who've been receiving their
25 distributions, the custody account holders faced the

1 potential of clawback actions. There is a proposed
2 settlement. People, as I understand it, have the
3 opportunity to opt out of it and take their chances.

4 I'm mindful of the concerns that many people have.
5 You know, the issue about people who withdrew their -- let's
6 put the insiders apart because they're excluded from this.
7 The insiders, I think, appropriately are treated
8 differently. But for the non-insiders, you know, a very
9 fundamental -- I've talked about this before, both in
10 writing and orally at hearings.

11 The very fundamental policy of bankruptcy is a
12 quality of distribution. If some creditors were able to
13 withdraw all of their funds within the 90 days and in effect
14 recovered 100 percent of what they believe their claim was,
15 it has a significant impact on the remaining unsecured
16 creditors whose funds were still on deposit on the petition
17 date.

18 And so, some of this is not a question -- I follow
19 the law. There's certainly, you know, in some of the
20 settlements that have been proposed, a substantial recovery
21 by custody account holders, but not 100 percent, so we'll
22 have to see how this all shakes out.

23 But I want people to understand, I don't view this
24 as an issue of either the committee or the Debtors trying to
25 take unfair advantage of those people who were able to

1 withdraw their funds within 90 days and may be subject to
2 avoidance actions. That isn't to resolve any issues about
3 defenses because there certainly are defenses. I'm mindful
4 that some people have raised the issue of the expense of
5 being able to defend against those actions.

6 The Bankruptcy Code is what the Bankruptcy Code
7 is. The issue about avoidance and preferences is an
8 important part of the Bankruptcy Code and it's intended to
9 provide a quality of distribution among all creditors. It
10 would be unfortunate if some small group of creditors was
11 able to be substantially advantaged while others are left
12 holding the back, in effect.

13 So I'll make those comments now. That isn't to
14 say that there won't be an appropriate consensual resolution
15 of those issues, but there's certainly been quite a few
16 things that I've seen from pro ses who are very concerned
17 about the avoidance actions.

18 I'm certainly committed, if there are avoidance
19 actions, to find a way to expedite it so we can get through
20 this and resolve the issue. It's my hope that creditors
21 will be able to recover the maximum amount of their claims
22 within the shortest period of time. It's certainly in my
23 interest to have this dragged out.

24 Is there anybody else who wishes to be heard at
25 this point before we move on from the exclusivity motion?

1 All right, Mr. Koenig, let's move on on the
2 agenda.

3 MR. KOENIG: Thank you, Your Honor. The next item
4 on the agenda is a stipulation that I believe the committee
5 filed, so I'll turn it over to Mr. Colodny.

6 MR. COLODNY: Your Honor, Aaron Colodny again on
7 behalf of the Official Committee of Unsecured Creditors.

8 Since the beginning of these cases, the committee
9 has investigated the Debtors and the events leading up to
10 these Chapter 11 cases. It has done so in connection with
11 the examiner's report and done so and attempted to do so
12 efficiently alongside the examiner to minimize the
13 administrative burden on these estates.

14 That investigation has revealed prepetition
15 conduct by the Debtors' former management that was
16 reprehensible. Individuals who are identified in the
17 proposed Complaint that is attached to the stipulation were
18 aware that Celsius was promising its customers interest it
19 could not afford and they did nothing to fix the problem.
20 They made negligent, reckless, and sometimes self-interested
21 investments that caused Celsius to lose billions of dollars
22 of customer assets.

23 They could not keep track of Celsius's position,
24 which resulted in hundreds of millions of dollars of losses.
25 And even after they realized those losses had occurred, they

1 did not adequately fix the problem. It caused Celsius to
2 spend hundreds of millions of dollars of customer money to
3 strategically inflate the price of CEL Token, and then
4 caused the company to purchase their own CEL Tokens at those
5 inflated prices.

6 Employees and insiders sat idly by as Mr.
7 Mashinsky recklessly bet hundreds of millions of dollars on
8 the movement of cryptocurrency markets, and they covered up
9 Mr. Mashinsky's repeated lies about Celsius investments and
10 its financial condition.

11 And finally, when it became apparent that
12 Celsius's business was doomed and it would file for
13 bankruptcy, many of those individuals withdrew their assets
14 while they were actively encouraging customers to keep their
15 assets on the platform. Those prospective defendants caused
16 the situation we all find ourselves in today.

17 But to be clear, this was not solely created by
18 Mr. Mashinsky. Either by direct action or systematic
19 omission, each of the defendants and the other employees and
20 other interpreted parties identified in the Complaint is
21 liable to Celsius and its creditors for the damage they
22 caused.

23 By the stipulation and agreed order, the Debtors
24 and the special committee have agreed to place those causes
25 of action and other claims against parties to be agreed with

1 the committee and a litigation vehicle to be pursued after
2 the effective date. The stipulation also provides the
3 committee and the Debtors with the ability to come to this
4 Court on an emergency basis and request relief if needed to
5 preserve those claims.

6 The committee understands that many other
7 governmental organizations are also investigating Mr.
8 Mashinsky and his co-conspirators. We're available to
9 discuss our investigation with those entities and help
10 ensure that any recovery is returned to the victims who were
11 harmed by the proposed defendant's actions.

12 We received one objection from a group of security
13 class action plaintiffs with respect to the treatment of the
14 Debtors' directors and officers. We've added language
15 resolving that objection and filed a revised form of order
16 at Docket No. 2193.

17 We request that the Court enter the stipulation,
18 which will ensure that these causes of action are preserved
19 against the Debtors' former management are preserved for the
20 benefit of the estate.

21 THE COURT: Why don't you explain for the record,
22 if you would, Mr. Colodny, what the changes that were made.
23 The original stipulation was at 2154 and, as you say, the
24 revised joint stipulation is 2913. Just explain for the
25 record so people understand what change was made in

1 response. And I'll certainly give, if the security
2 plaintiffs want to be heard, I'll give them an opportunity,
3 but why don't you just go ahead and just explain for the
4 record what changes have been made.

5 MR. COLODNY: Of course, Your Honor. So the first
6 change was to make it clear that only the Debtors' interest
7 in the directors and officers insurance policy is going to
8 be transferred and that those policies will only be
9 transferred if allowed by the Bankruptcy Code, applicable
10 law, or the terms of the policy. And those changes were
11 intended to make sure that all that is transferred is what
12 is owned by the Debtors and what is allowed by the law.

13 The second change was just to clarify that nothing
14 in the stipulation is going to determine whether the
15 securities class action is property of the Debtors' estate
16 or not. It simply punts that for another day.

17 But with those changes, we believe their objection
18 is resolved.

19 THE COURT: Thank you very much, Mr. Colodny.
20 Does anybody else wish to be heard? Mr. Etkin.

21 MR. ETKIN: Yes, Your Honor. Michael Etkin,
22 Lowenstein Sandler on behalf of the proposed lead
23 plaintiffs.

24 We appreciate the efforts of Mr. Colodny to add
25 that language. Obviously, our concern -- it was a limited

1 objection, which set forth our concerns. We think those
2 concerns have been addressed. We would note that we don't
3 understand how the direct claims of customers under the
4 securities laws could ever be causes of action or claims
5 owned by the Debtor, but we did agree to punt that, and to
6 the extent that issue comes up, we'll resolve it at that
7 time.

8 So with that, our objection has been resolved.

9 THE COURT: Thanks very much, Mr. Etkin. All
10 right. Does anybody wish to be heard with respect to this
11 stipulation?

12 MR. KOENIG: Your Honor, Chris Koenig for the
13 Debtors, just very briefly.

14 THE COURT: Go ahead, Mr. Koenig.

15 MR. KOENIG: We agree with Mr. Colodny that the
16 examiner's report demonstrates reprehensible conduct by the
17 Debtors' former management team and obviously the word
18 former is very important. We have a new management team.
19 We have a special committee that was appointed just before
20 the petition date.

21 That special committee, that new management team
22 has fully complied with all of investigations, including by
23 the committee, the examiner, and various governmental
24 authorities as well, and it's because we think that this
25 conduct is so reprehensible that we agreed to turn over

1 these claims to a litigation trust.

2 In many large Chapter 11 cases, we would be
3 standing here not with a stipulation but with a fight about
4 standing and whether the committee had demonstrated standing
5 to pursue these claims. It doesn't make sense to do that
6 here. We think that these claims should be pursued at the
7 appropriate time.

8 But given the progress that we have made to date,
9 we are, as I said a few minutes ago, we're headed for the
10 exit and we don't want these claims to be a distraction to
11 the ultimate goal of getting us out of bankruptcy as fast as
12 possible, returning distributions of cryptocurrency to
13 customers as fast as possible. And this will be taken up
14 promptly, you know, on emergence and pursued for the benefit
15 of account holders.

16 But just wanted to be clear that, you know, we
17 fully support the stipulation given the unique facts and
18 circumstances here. Thank you.

19 THE COURT: Thank you, Mr. Koenig. All right.
20 The joint stipulation, to the extent there are any remaining
21 objections overrule. I don't think there are any at this
22 point. It's approved. Just submit a Word copy and it'll be
23 promptly entered, okay?

24 MR. COLODNY: We submitted that yesterday. Thank
25 you, Your Honor.

1 THE COURT: All right. Thanks very much. All
2 right, let's move on. The next, 4, 5, and 6 on the agenda
3 all relate to motions to strike designations of the record
4 for pending appeals. It first relates to the appeal by Mr.
5 Frishberg. I'm going to take these all together, the
6 Khanuja appeal, and the Steadman appeal.

7 You know, there's no question that the motion to
8 strike is properly made before the Bankruptcy Court, always
9 struck me as a little odd that the Bankruptcy Court is being
10 asked to decide what should be part of the record on appeal,
11 but that's what I guess Rule 8009 deals with.

12 Are you going to deal with this, Mr. Koenig?

13 MR. KOENIG: I am, Your Honor, thank you. So
14 again, I'll take these all together. These are all appeals
15 of the Court's earn ruling in January. The purpose of
16 designating a record on appeal is to accurately reflect what
17 actually took place before the lower court.

18 The appellants sought to introduce over 250
19 different items, most of which are simply not related to
20 what took place in earn stablecoin ruling. Many of the
21 items that they seek to designate were not even existence at
22 the time of the earn trial, so they certainly could not be
23 part of the record on appeal. They certainly were not even
24 in existence at the time that the Court held the proceeding.

25 And as Your Honor pointed out, Bankruptcy Rule

1 8009(e) provides that if there's a dispute about what the
2 record, you know, below was that we're supposed to bring
3 that dispute to Your Honor, so we filed the motions to
4 strike. We met and conferred with some of the appellants a
5 couple of days ago. We've managed to narrow the issues a
6 little bit.

7 To be clear, we do not object to the appellate
8 record including the motions, both the original motion, the
9 amended motion, all the responses, the objections to those
10 motions, the scheduling order and the responses and
11 objections to those motions being included. And, of course,
12 the record should include the transcripts of the hearings,
13 the November 1st status conference and the trial on December
14 5th.

15 But what the appellants are seeking to do is to
16 include a bunch of wholly irrelevant documents: letters that
17 predate the earn motion itself, documents that were created
18 after the earn trial concluded, and purported evidence that
19 they argue they would have introduced but for their mistake.

20 In their omnibus objection, which was filed at
21 Docket No. 2164, the appellants cite several cases for the
22 proposition that their mistake in failing to introduce
23 evidence at the earn hearing means that this evidence means
24 that this evidence should be included in the record on
25 appeal. That's not actually what those cases say.

1 Those cases actually support our motions to
2 strike. Specifically in Prudential Wines, the Court was
3 talking about a mistake in designating the record on appeal,
4 not a failure to introduce that evidence in the first place,
5 and the district court in that case even denied the request
6 to add additional materials on appeal because those
7 materials were not part of the record before the Bankruptcy
8 Court.

9 Likewise, in Food Fair, the appellants were
10 seeking to add a related adversary proceeding that the Court
11 described as closely related to the issue before the
12 Bankruptcy Court. Here, the appellants are seeking to
13 introduce materials from the custody and withhold disputes,
14 not the earn dispute; those are not closely related.

15 So to allow the record on appeal to include items
16 that clearly were not before the Court as part of the earn
17 motion is improper and would deny the Debtors the right to
18 challenge the authenticity or admissibility of these
19 documents. For example, they're seeking to admit the
20 depositions of the witnesses. Those depositions are hearsay
21 and are not admissible for the truth of the matter asserted
22 and we would have raised that objection had they sought to
23 introduce them at the trial.

24 So in any event, what we've agreed to do with the
25 appellants is rather than going line by line on each

1 document, which would be excruciating I think in open court,
2 I believe that they're going to raise categories of
3 documents that they believe should be included and, you
4 know, we will argue that they should be excluded.

5 And Your Honor can resolve these categories of
6 documents and then we'll agreed to meet and confer after the
7 hearing and take Your Honor's ruling on the categories and
8 apply it to the specific documents. I'm cautiously
9 optimistic that we'll be able to reach, you know, an agreed
10 form of order once we have sort of the ruling on the
11 categories themselves.

12 So I'll pause there and see if Your Honor has any
13 questions for me and, if not, we can turn it over to the
14 objectors.

15 THE COURT: I don't. Mr. Frishberg.

16 MR. FRISHBERG: Thank you, Your Honor. Several of
17 the appellants, as the Debtors have stated, had a fairly
18 productive call with the Debtors on Monday. We agree that
19 we can work with some stuff, but we also had some
20 disagreements, as Mr. Koenig stated.

21 But we also have a different question, and I mean
22 no disrespect to you, Your Honor, but does this Court even
23 have jurisdiction over this matter since Judge
24 (indiscernible) has already entered two orders of the docket
25 on appeal. He's accepted the Steadman appeal to the

1 original appeal and is considering consolidating all of the
2 appeals. That's a question I respectfully must raise.

3 THE COURT: Well, I just say this, Mr. Frishberg.
4 It was always a surprise to me that Rule 8009 says come back
5 to the Bankruptcy Court if there's a dispute about what
6 should be part of the record on appeal. That's what the
7 rule says, so I'm supposed to decide that.

8 That doesn't stop you from arguing whatever you're
9 going to argue in the district court, whether something else
10 should be considered or not, but the rule puts it in my
11 court to decide it and that's what I'm going to do.

12 MR. FRISHBERG: Thank you, Your Honor. In their
13 initial motion, the Debtors attempted to strike basically
14 everything our designation, which was apparently an
15 accident. But would it be all right if we got to you a new
16 list of categorized documents by March 19th?

17 THE COURT: Look, what I would like to see is that
18 you and Mr. Khanuja and Miss Steadman continue to try and
19 iron this out with Mr. Koenig or his colleagues, get it
20 narrowed down to the fullest extent you can.

21 My only concern was when you said March 19th. I
22 don't know whether -- I'm not sure what the schedule in the
23 district court is. I don't want to do anything to slow
24 down, you know, the process in the district court.

25 Mr. Koenig, can you shed any light on what the

1 district court has done?

2 MR. KOENIG: Yes, Your Honor. The district court
3 is currently considering whether to hear the appeals. The
4 appellants have argued that Your Honor's earn order is a
5 final order or that if it is interlocutory, it should be
6 heard at this time.

7 The Debtors filed an objection and argued that it
8 is not final; it is interlocutory and in an appeal, should
9 not be granted permissively. The district court has not yet
10 ruled on that motion -- on that objection on whether to
11 accept the appeal and have it go forward.

12 THE COURT: All right. Mr. Frishberg, could you
13 do this in a week by the 15th, by 5:00 p.m. Wednesday, the
14 15th? I'd like to be able to get this done so that the
15 district court can decide whatever it's going to decide.
16 I'd just be cutting back -- you asked for the 17th, I'm
17 asking whether you could do it by close of business on the
18 15th.

19 MR. FRISHBERG: We will do our best, Your Honor.
20 We will arrange a meet and confer with the Debtors again
21 after we have some time to review the documents to see what
22 we can work out.

23 THE COURT: Okay, look, it would be helpful to me.
24 To the extent you're able to narrow your disagreements, I
25 think it would be in everybody's interest to be able to do

1 that.

2 MR. FRISHBERG: Yes, Your Honor.

3 THE COURT: Okay. Let me just say, you know, Mr.
4 Koenig, that may require you to sort of bend over backwards
5 a little bit, even though you think that some things -- you
6 know, if you want to argue to the district court it couldn't
7 consider certain things that have been put in the record,
8 you're obviously free to do that.

9 But let's -- this is the first time I've ever had
10 this come up before me where anybody's had to use 8009 to
11 try and get me to strike things from a record on appeal.
12 You know, see what you can do, okay?

13 MR. KOENIG: Understood, Your Honor. And we
14 wouldn't have done it if we didn't feel it was necessary,
15 but we'll certainly endeavor to narrow the issues.

16 THE COURT: Okay. Mr. Khanuja, do you want -- Mr.
17 Frishberg, is that an okay way to proceed?

18 MR. FRISHBERG: Yes, Your Honor. Thank you.

19 THE COURT: Okay. Mr. Khanuja, is that acceptable
20 to you?

21 MR. KHANUJA: Yes, Your Honor. I've been
22 listening and I think Mr. Frishberg has raised some valid
23 concerns, but we'll work together to get these resolved with
24 Mr. Koenig and his team.

25 THE COURT: Thank you very much. All right, Miss

1 Steadman. You're muted.

2 MS. STEADMAN: Sorry.

3 THE COURT: No, that's okay.

4 MS. STEADMAN: I just wanted to thank you.

5 THE COURT: The most common words in these remote
6 hearings is, you're on mute, you're on mute. Go ahead.

7 MS. STEADMAN: Can you hear me now? That's
8 another one.

9 THE COURT: I can hear you. Yes, I can hear you.

10 MS. STEADMAN: So I just wanted to thank you. I'm
11 also in the Voyager case and you and Judge Wiles have both
12 been very kind and understanding. These are complex cases,
13 as you've said, and most of us are not in the legal
14 profession and we have no idea what we're doing.

15 And I just wanted to state that my reason for the
16 appeal was, I didn't know that the UCC was going to agree
17 with the Debtors. And by the time I realized it, I filed a
18 joinder on an objection in a rush because I do disagree, but
19 I believe that -- I didn't know enough to make sure that my
20 attorney was going to do anything. And so, then afterwards,
21 it was kind of confusing and upsetting.

22 So just thank you for giving us the opportunity to
23 work with the Debtors, and I want to thank Kirkland & Ellis
24 also for working with us. And I do believe if we weren't in
25 the situation that we're in, that we would all be getting

1 along just fine, but right now, we're one great big
2 dysfunctional family.

3 Thank you very much.

4 THE COURT: All right, thanks Ms. Steadman. I see
5 several hands raised. First, Mr. Anderson and then Mr.
6 Herrmann, I'll call on you next. Go ahead, Mr. Anderson.

7 MR. ANDERSON: Hi. Can you hear me?

8 THE COURT: Yes, I can. Go ahead.

9 MR. ANDERSON: Hi. My name is Samuel Anderson and
10 I am -- I'm sorry, I've never done this before. I wanted to
11 bring something to the Court's attention. It's been
12 slightly, I guess, addressed a little bit. But I wanted to
13 say that we have what I consider to be a hostile creditor,
14 Daniel Frishberg, who is consistently aggressive and
15 verbally abusive to others online, and he is explicit in
16 wasting all of our funds and is extremely juvenile.

17 THE COURT: Mr. Anderson, this is not a forum for
18 one creditor to criticize another creditor. What I have
19 before me now, and if you want to address that, I'll permit
20 you to do it. There are three motions -- well, the Debtor
21 has made motions to strike portions of the designation of
22 the appellate record by Mr. Frishberg, Mr. Khanuja, and Miss
23 Steadman. That's what's being discussed right now.

24 MR. ANDERSON: Okay.

25 THE COURT: If you have something to talk about

1 that, I'll permit you to do it, okay?

2 MR. ANDERSON: No, that's it. I just want to say
3 how juvenile he was.

4 THE COURT: Well, okay. Mr. Herrmann.

5 MR. HERRMANN: Thank you, Your Honor. Immanuel
6 Herrmann, pro se creditor. I just wanted to speak just to
7 remind you, I think you probably saw, but I'm also on one of
8 the appeals.

9 THE COURT: I did. I saw it.

10 MR. HERRMANN: Yeah, so I just wanted to address
11 some of the categories.

12 THE COURT: Let me ask you to do this, because
13 I've reviewed it, okay. I'm not ruling today. I think you
14 definitely should be part -- you know, you've been active in
15 this case from the start and I appreciate that. You've
16 raised good issues, some not so good issues, but many good
17 issues, okay.

18 What I'd like you to do is, along with Mr.
19 Frishberg, Miss Steadman to the extent she's proceeding, and
20 Mr. Khanuja is talk with Mr. Koenig, see if you can narrow
21 down what the items in dispute are. As I've suggested to
22 Mr. Koenig, you know, the world isn't going to come to an
23 end, Mr. Koenig, if some things are included in the record
24 on appeal, which you then argue to the district court really
25 aren't relevant to the issues on appeal.

1 You know, the district court, you know, is not
2 going to want to see everything on the docket; well, that's
3 not what's been proposed, but, you know. If you want to get
4 an appellate ruling in real time, what's important is that
5 you provide the district court with those parts of the
6 record that are pertinent to the matters on appeal, okay.

7 You know, you've been cooperative on many things
8 throughout this case, Mr. Herrmann. That's what I'd like to
9 see, see if you can narrow it down. If you can provide me
10 with that, if I get something by next week by close of
11 business Wednesday that shows here are the remaining
12 disputes, I'll resolve them. Okay?

13 MR. HERRMANN: Okay, thank you, Your Honor. Yeah,
14 I mean, I would say that, like, actually, I thought that the
15 call was with the Debtors. I mean, we resolved a surprising
16 amount. I think that this, it'll be far fewer than the
17 number of items that were originally in the (crosstalk).

18 THE COURT: I know, I've got this long list of
19 items. Rather than have to go through that, let me see, to
20 the extent there's still a disagreement after you work it
21 out. It sounds like you've made progress and, hopefully,
22 both sides will show a little flexibility.

23 Look, it's in the -- it seems that on the
24 Bankruptcy Court docket, if you think they're critically
25 important, the district court has the ability to look at

1 them. Let's leave it at that for now, okay? Thanks, Mr.
2 Herrmann.

3 MR. HERRMANN: All right, thank you.

4 THE COURT: All right. Now we move on to status
5 conferences, Frishberg v. Celsius, Adversary Proceeding 22-
6 01179. First, Mr. Frishberg.

7 MR. FRISHBERG: Thank you, Your Honor. As you
8 likely know, there has not been very much progress on my
9 adversary proceeding thus far since I've not served my
10 summons. I expect to serve the summons, the second summons
11 -- the first one I actually requested -- as soon as I
12 receive it, which will hopefully be today. And I would know
13 shortly before that be amending my adversary proceedings
14 before I serve it (indiscernible) today.

15 That's about it. I mean, that's all said.

16 THE COURT: All right, thanks. Does somebody from
17 the Debtor want to respond? Mr. Koenig, are you going to
18 respond to this?

19 MR. KOENIG: Your Honor, Chris Koenig. We'll, of
20 course, you know, review what Mr. Frishberg files and
21 respond in due course.

22 THE COURT: All right, thank you very much. All
23 right, next is Celsius Network Limited v. Fabric Ventures
24 Group, SARL, Adversary Proceeding 23-01002. Mr. Koenig, are
25 you going to address that?

1 MR. KOENIG: Yes, Your Honor. This is an
2 adversary that we filed. I don't believe that the
3 defendant's time to respond has actually run yet, but I
4 believe that this pretrial conference was automatically
5 scheduled --

6 THE COURT: It was.

7 MR. KOENIG: -- even though they haven't actually
8 filed anything yet.

9 THE COURT: All right. Is anybody appearing today
10 for Fabric Ventures? All right, we'll wait until -- have
11 they been served at this point, Mr. Koenig?

12 MR. KOENIG: I believe so, Your Honor.

13 THE COURT: Okay. When is their deadline for
14 response?

15 MR. KOENIG: I unfortunately don't have that in
16 front of me, but I can give it to your chambers.

17 THE COURT: Okay. All right, the next adversary
18 proceeding is Yanchuk v. GK8, Ltd., et al, Adversary
19 Proceeding 23-01003. Mr. Koenig.

20 MR. KOENIG: Your Honor, we're the defendant.
21 This adversary proceeding was filed as an adversary
22 proceeding. It was, the Complaint was a one-page
23 handwritten note and the plaintiff's proof of claim was
24 attached to that handwritten note. We've reached out to her
25 to try to, you know, have a dialogue with her to explain

1 that she doesn't need an adversary proceeding for her proof
2 of claim to work in the claims process. To date, we haven't
3 been able to have a constructive dialogue with the
4 plaintiff. I don't know if she's on the line or not, but we
5 haven't been able to move that forward.

6 THE COURT: All right. Miss Yanchuk, are you on
7 the phone or on the line?

8 CLERK: I don't see anyone with that name, Judge.

9 THE COURT: Okay. Take what action you think is
10 appropriate, Mr. Koenig.

11 MR. KOENIG: Thank you. All right, we've dealt
12 with the Selendy Gay Elsberg retention, has been approved
13 already. Moving on in the resolved matters. Why don't you
14 update me on where things stand on Willis Towers Watson.

15 MR. KOENIG: Certainly, Your Honor. So we've
16 agreed to file a retention application for Willis Towers
17 Watson. We understand that that resolves the U.S. Trustee's
18 issue. Obviously, the reserve rights on the actual
19 retention application itself, so they're going through the
20 conflicts checks and we're, you know, preparing the
21 retention application.

22 We expect it to be submitted, you know, in the
23 coming days, perhaps a week or so. But hopefully we have
24 that on file soon and then, you know, Miss Cornell and the
25 other parties can review the retention application and we'll

1 have it determined at a hearing.

2 THE COURT: That's fine. Miss Cornell.

3 MS. CORNELL: Thank you, Your Honor. Shara

4 Cornell on behalf of the Office of the United States

5 Trustee. That's correct. I have not seen the retention

6 application yet though. Thank you.

7 THE COURT: Thank you very much. All right. I

8 think that deals with everything on the agenda. Starting at

9 Page 11, it deals with things that have been adjourned. We
10 don't have to deal with that today.

11 Mr. Koenig, anything else that we need to cover
12 today?

13 MR. KOENIG: No thank you, Your Honor. We'll see
14 you on the 21st.

15 THE COURT: All right. Thank you very much
16 everybody and we are adjourned.

17 MR. KOENIG: Thank you.

18 CLERK: Please stop the recording.

19 (Whereupon these proceedings were concluded at
20 12:08 PM)

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I N D E X

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: March 10, 2023